

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JONATHAN MARQUEZ,
Plaintiff,
v.
ORTIZ, et al.,
Defendant.

No. 1:23-cv-01782-KES-EPG

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DENYING
PLAINTIFF'S MOTION FOR LEAVE TO
FILE A SECOND AMENDED COMPLAINT

(Docs. 37, 42)

Plaintiff Jonathan Marquez is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed his initial complaint on December 29, 2023 (Doc. 1) and First Amended Complaint on May 10, 2024 (Doc 7). This case now proceeds on plaintiff's claim against defendant Ortiz for excessive force in violation of the Eighth Amendment. Doc. 18. The matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On October 6, 2025, plaintiff filed a motion to amend the operative complaint. Doc. 37. Plaintiff requested the opportunity to prove that defendant did retaliate and showed deliberate indifference. Doc. 37 at 1. On September 16, 2025, the assigned magistrate judge issued findings and recommendations, recommending that plaintiff's motion for leave to file a second amended complaint be denied. Doc. 42. Specifically, the magistrate judge found that the relevant factors—bad faith, undue delay, prejudice to the opposing party, futility of the amendment, and

1 whether the plaintiff has previously amended the complaint—on balance weighed in favor of
2 denying the motion. *Id.* at 6–8. The findings and recommendations were served on all parties
3 and contained notice that any objections thereto were to be filed within thirty days after service.
4 *Id.* at 5. Plaintiff filed timely objections on October 27, 2025. Doc. 43.

5 In accordance with 28 U.S.C. § 636(b)(1), this Court has conducted a de novo review of
6 this case. Having carefully reviewed the file, including plaintiff’s objections, the Court concludes
7 that the findings and recommendations are supported by the record and proper analysis.
8 Plaintiff’s objections do not establish that plaintiff can state a claim for retaliation and thus, do
9 not undermine the magistrate judge’s finding that further amendment of the complaint would be
10 futile. Plaintiff does not meaningfully challenge that, on balance, the relevant factors weigh in
11 favor of denying the motion to amend the complaint.

12 Accordingly:

- 13 1. The findings and recommendations issued on October 16, 2025, Doc. 42, are
14 adopted in full; and
- 15 2. Plaintiff’s motion for leave to file a second amended complaint, Doc. 37, is denied.
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18 IT IS SO ORDERED.

19 Dated: December 29, 2025

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UNITED STATES DISTRICT JUDGE